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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,057	09/26/2001	Brian Marquette	44846.830002.000	2669
26582	7590	01/12/2005	EXAMINER	
HOLLAND & HART, LLP 555 17TH STREET, SUITE 3200 DENVER, CO 80201			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/965,057

Applicant(s)

MARQUETTE ET AL.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/22/04 (status request).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: <u>1/8/03; 10/30/01</u> | 6) <input type="checkbox"/> Other: _____ |

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Non-Art Rejections:

Art Rejections:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiryaman, U.S. Pat. Appl. Pub. No. 2001/0030970.

Per claim 1, Wiryaman discloses a system and method for serving client requests comprising:

a) providing at least one access server (220, fig. 2) that has access to at least one network server or application, e.g., a web server (see page 3, par 53-55 and page 5, par 69-70),

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- b) receiving a request from at least one user at the access server to access the network application and establishing a communication flow/link between the access server and the user based on the received request (see page 5, par 66);
- c) storing (queuing) the received request in an input queue (page 5, par 66);
- d) checking for an availability of the requested application and establishing the communication path between the input queue and the requested application (see pages 6-7, par 78-81);
- e) removing (de-queuing) the stored request and sending the stored request to the requested application (page 7, par 78).

Wiryaman also teaches multiplexing user requests, network bandwidth allocation and traffic scheduling (see page 6, par 72-76 and page 7, par 87). Wiryaman does not explicitly teach checking for an available communication path.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform such step in Wiryaman because it would have enabled the system to utilize and scheduling data traffic more efficiently (see pages 7-8, par 87).

Per claim 2, Wiryaman teaches identifying media transmission protocol from the request (see page 4, par 64).

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Per claim 3, Wiryaman also teaches detecting transmission error and retransmitting the request in response to the detected transmission error (see page 7, par 78). Wiryaman does not teach verifying transmitted packets. An official notice is taken that checking/verifying transmitted packets is a well-known method for detecting a transmission error.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a conventional packet verification method in Wiryaman because it would have enabled detecting packet transmission errors.

Per claims 4-6, it is also noted that Wiryaman's teachings are applicable to any conventional communication protocols.

Per claim 7, Wiryaman further teaches using a request (packet) handler for generating a new service request (new session/flow) (see page 5, par 66).

Per claim 8, Wiryaman teaches using an application (proxy) handler to handle the service request (see pages 6-7). Wiryaman does not explicitly teach using a specific programming protocol to invoke or initialize the request handler and application handler.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any conventional programming protocols in Wiryaman to implement the

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request handler and the application handler because it would have enabled the access server to invoke the desired functions for processing packets and/or client requests.

Claims 9-23 are similar in scope as that of claims 1-8.

Conclusion:

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.



VIET D. VU
PRIMARY EXAMINER

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1/6/05